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Judge: Christopher M. Alston
Chapter: 13
Location: Seattle
Hearing Date: December 13, 2018
Hearing Time: 9:30 a.m.

5 Attorneys for Creditor 21st Mortgage Corporation
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8 IN THE UNITED STATES BANKRUPTCY COURT
9 FOR THE WESTERN DISTRICT OF WASHINGTON

10 In re

11 JACK C. CRAMER, JR.,

12 Debtor.
13

Case No. 18-13383-CMA

CREDITOR 21ST MORTGAGE
CORPORATION'S OBJECTION TO
CONVERT CHAPTER 13 CASE TO A
CHAPTER 7 CASE

14 21st Mortgage Corporation ("21st"), by and through counsel, hereby objects to the
15 Trustee's Motion to Convert Chapter 13 Case to a Chapter 7 Case [Doc 27] (the "Motion").
16 Specifically, 21st objects to conversion and requests that the court dismiss this case pursuant to
17 11 U.S.C. § 1307(c). In support of its objection, 21st states the following:

18 **I. BACKGROUND**

19 21st is a creditor of Debtor having a claim in the total amount of \$40,710.68, plus
20 interest at the fixed rate of 12.0% per annum, which claim is secured by a judgment lien on
21 Debtor's real property, as set forth in 21st's Objection to Confirmation of Plan [Doc 20]. 21st's
22 claim arises out of a Judgment for Money Owed entered in King County Superior Court Case
23 No. 15-2-21512-4 SEA on July 14, 2016 against Debtor and in favor of 21st, which Judgment
24 was recorded on August 2, 2016 in the King County, Washington records under Auditor's File
25 No. 20160802000179. 21st has also filed a Proof of Claim setting forth the total amount due
26 under the Judgment [Claim 4]. 21st is a party in interest in accordance with 11 U.S.C. § 1307.

1 A Writ of Execution to the King County Sheriff for the sale of Debtor's real
2 property commonly known as 15605 63rd Ave. NE, Kenmore, WA 98028 (the "Property") was
3 recorded on May 22, 2018 in the King County, Washington records under Auditor's File No.
4 20180522001540. On May 22, 2018, the King County Sheriff levied the Property and issued a
5 Notice of Sale of Real Property. The execution sale was scheduled for August 31, 2018, two
6 days prior to Debtor filing this proceeding and was undoubtedly the cause of Debtor filing for
7 relief under the bankruptcy code.

8 On November 1, 2018, the Trustee filed an Objection to Confirmation [Doc 22]
9 noting at least 17 separate basis for denying confirmation. On November 6, 2018, the Trustee
10 filed the Motion requesting that the Court convert the case from a Chapter 13 to a Chapter 7.
11 The Motion contains the same 17 reasons for conversion as set forth in the Objection to
12 Confirmation. Thereafter, on November 9, 2018, the Court entered an Order Denying
13 Confirmation [Doc 30], which Order requires the Debtor to file an amended plan by December 7,
14 2018 and reschedules the confirmation hearing to January 10, 2019. The Debtor did not appear
15 at the confirmation hearing held on November 8, 2018. In addition, after the Motion was filed,
16 the Trustee held the rescheduled 341a Meeting of Creditors on November 19, 2018 at which the
17 Debtor apparently did not appear. The Meeting of Creditors has been rescheduled yet again for
18 December 17, 2018.

19 **II. OBJECTION AND ARGUMENT**

20 21st objects to the Motion to the extent that it requests conversion of this case
21 rather than dismissal. 11 U.S.C. § 1307 provides that the Court can dismiss a case or convert it
22 to a Chapter 7 case, whichever is in the best interests of creditors and the estate, for cause. 11
23 U.S.C. § 1307(c). It appears from the records and files in this case that dismissal is in the best
24 interests of the creditors. As noted above, it appears likely that the sole reason for Debtor filing
25 for protection under the bankruptcy code was to stop the lawful execution sale of his Property to
26 satisfy 21st's Judgment. This is further supported by the fact that Debtor has taken no steps to

1 advance this case, including failing to appear for the Meeting of Creditors and the confirmation
2 hearing, failing to make the proposed Plan payments, and failing to provide the Trustee with the
3 documentation required by local bankruptcy rules and the Code, among other things. *See*
4 Trustee's Objection to Confirmation [Doc 22].

5 The Motion claims that Debtor's plan "should" provide for a liquidation value of
6 \$362,850 which would be sufficient to pay the creditors in full. However, the Motion also notes
7 many deficiencies and inconsistencies between Debtor's proposed plan and his schedules.
8 Indeed, the Objection to Confirmation requires that Debtor amend his schedules to make several
9 corrections, as well as providing an amended plan (due by December 7 in accordance with the
10 Court's Order Denying Confirmation). In addition to several other items, the Trustee notes that
11 Debtor has not listed the correct value of Debtor's interest in the Property in his schedules.
12 Based on the Trustee's Motion, it is clear that it is not possible for the Court to determine that
13 conversion is in the best interests of the creditors because of the deficiencies and inaccuracies in
14 Debtor's schedules.

15 Thus, based on the forgoing, the Court should not convert the case from a Chapter
16 13 to a Chapter 7. Rather, the Court should either dismiss this case or delay ruling on the
17 Trustee's Motion until Debtor has filed his amended plan and schedules. And if Debtor fails to
18 file the amended documents, then the Court should dismiss this case because it could not
19 determine that conversion is in the best interest of the creditors. If the case is dismissed, then
20 Debtor's creditors would be free to enforce their claim(s) against the sufficient assets he
21 apparently possesses and that may well be in the creditors' best interest.

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1 WHEREFORE, 21st objects to conversion of this case and requests that the case
2 be dismissed in the best interest of the creditors.

3 Dated: December 3, 2018.

4 TOMASI SALYER MARTIN

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6 By: /s/ Eleanor A. DuBay
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10 Of Attorneys for 21st Mortgage
11 Corporation
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on December 3, 2018, I served the foregoing **CREDITOR**
3 **21ST MORTGAGE CORPORATION'S OBJECTION TO CONVERT CHAPTER 13**
4 **CASE TO A CHAPTER 7 CASE** on the following individuals by electronic notification via
5 CM/ECF as follows:

6 Jason Wilson-Aguilar courtmail@seattlech13.com
7 United States Trustee USTPRegion18.SE.ECF@usdoj.gov

8 The parties listed below will be served via First Class Mail to their last known
9 address(es):

10 Jack Carlton Cramer, Jr.
11 15605 63rd Ave. NE
12 Kenmore, WA 98028
13 *Debtor, pro se*

14 Dated: December 3, 2018.

15 TOMASI SALYER MARTIN

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